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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,216	07/08/2003	Bobby Ray Ricks	SUT103	8512

7590 01/10/2005  
William E. Noonan  
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Fort Myers, FL 33919

EXAMINER

TORRES, ALICIA M

ART UNIT PAPER NUMBER

3671

DATE MAILED: 01/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

MP

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/615,216	RICKS, BOBBY RAY	
	<b>Examiner</b>	<b>Art Unit</b>	
	Alicia M Torres	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 October 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3-6 and 8-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-6 and 8-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 10, 3-5 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Girardi '705.

3. In regard to claims 10 and 3-5, Girardi '705 discloses a machine for harvesting produce from a pair of adjacent, generally parallel rows of produce-bearing trees, said machine comprising:

a land vehicle (16) that includes a chassis for being driven between the adjacent rows of trees, said chassis (17) supporting a produce collection receptacle (97);

a first pair of independently operable, selectively extendible and retractable upper level lift arms (39) pivotally mounted to said chassis (17) on respective opposite sides thereof such that each upper level lift arm (39) is positioned to correspond with a respective one of the adjacent rows of trees; and

a second pair of independently operable, selectively extendible and retractable intermediate level lift arms (also 39) pivotally mounted to said chassis (17) on respective opposite sides thereof such that each intermediate level lift arm (39) is positioned to correspond with a respective one of the adjacent rows of trees;

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each said arm (39) in each said pair supporting proximate a distal end thereof a carrier (63) for holding a person, and said arm (39) being adjustable to position said carrier (63) such that a person in the carrier (63) is able to manually collect fruit from one of the rows of trees, said upper level lift arms (39) for positioning their associated carriers (63) and persons therein so that such persons are able to collect fruit from the upper levels of the adjacent rows of trees and said intermediate level lift arms (also 39) for positioning their associated carriers (63) and persons therein so that such persons are able to collect fruit from intermediate levels of the adjacent rows of trees, which intermediate levels are below the upper levels;

a plurality of conduits (70), each conduit (70) attached proximate to an upper end thereof to a respective one of said carriers (63) such that an entrance of said conduit (70) is accessible to a person in said respective carrier (63) and each conduit (70) further being attached proximate a lower end thereof to said receptacle (97), each conduit (70) for transmitting fruit deposited into said entrance through said conduit (70) in the absence of a flow of water and discharging said transmitted fruit into said receptacle (97), as per claim 10; and

further including a conveyor (99) mounted to said chassis (17) for transmitting fruit from said receptacle (97) to a storage bin (unnumbered delivery station, see Figure 2) connected to said chassis (17), as per claim 3; and

in which each arm (39) is telescopically extendible and retractable, as per claim 4; and

in which said carrier (63) includes a bucket, as per claim 5.

4. In regard to claim 12, Girardi '705 discloses a machine for harvesting produce from a pair of adjacent, generally parallel rows of produce-bearing trees, said machine comprising:

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a land vehicle (16) that includes a chassis (17) for being driven between the adjacent rows of trees, said chassis (17) supporting a produce collection receptacle (97);

a first pair of independently operable, selectively extendible and retractable upper level lift arms (39) pivotally mounted to said chassis (17) on respective opposite sides thereof such that each upper level lift arm (39) is positioned to correspond with a respective one of the adjacent rows of trees;

a second pair of independently operable, selectively extendible and retractable intermediate level lift arms (also 39) pivotally mounted to said chassis (17) on respective opposite sides thereof such that each intermediate level lift arm (39) is positioned to correspond with a respective one of the adjacent rows of trees;

each said arm (39) in each said pair supporting proximate a distal end thereof a carrier (63) for holding a person, and said arm (39) being adjustable to position said carrier (63) such that a person in the carrier (63) is able to manually collect fruit from one of the rows of trees, said upper level lift arms (39) for positioning their associated carriers (63) and persons therein so that such persons are able to collect fruit from the upper levels of the adjacent rows of trees and said intermediate level lift arms (also 39) for positioning their associated carriers (63) and persons therein so that such persons are able to collect fruit from intermediate levels of the adjacent rows of trees, which intermediate levels are below the upper levels;

a plurality of conduits (70), each conduit (70) attached proximate to an upper end thereof to a respective one of said carriers (63) such that an entrance of said conduit (70) is accessible to a person in said respective carrier (63) and each conduit (70) further being attached proximate a lower end thereof to said receptacle (97), each conduit (70) for transmitting fruit deposited into

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said entrance through said conduit (70) in the absence of a flow of water and discharging said transmitted fruit into said receptacle (97); and

a conveyor (99) mounted below said lower ends of said conduits (70) such that fruit transmitted through said conduits (70) is dropped directly on said conveyor (96) without being transmitted through an intermediate supply of water, which conveyor (99) transmits such fruit from said receptacle (97) to a storage bin (unnumbered delivery station, see Figure 2) connected to said chassis (17).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6, 8, 9, 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Girardi '705 in view of Wiegel.

The device is disclosed as applied above. However, Girardi '705 fails to disclose further making at least one chute attached to said chassis and communicating with said receptacle for introducing produce collected from proximate ground level into said receptacle, as per claim 6; and

in which said conduit includes a flexible pipe, as per claim 8; and

in which said conduit carries a funnel at said upper end thereof for facilitating introduction of collected produce into said conduit, as per claim 9; and

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in which said chute is accessible by a person standing on the ground such that such person is able to collect produce from ground levels of the adjacent rows of trees, which ground levels are below the intermediate levels, as per claim 11; and

in which the fruit is transmitted through the conduit by at least one of gravity feed and vacuum assist exclusively, as per claim 13.

Wiegel discloses a similar device further making at least one chute (98) attached to said chassis (10) and communicating with said receptacle (92) for introducing produce collected from proximate ground level into said receptacle (92), as per claim 6; and

in which said conduit (62) includes a flexible pipe, as per claim 8; and

in which said conduit (62) carries a funnel (65) at said upper end thereof for facilitating introduction of collected produce into said conduit (62), as per claim 9; and

in which said chute (98) is accessible by a person standing on the ground such that such person is able to collect produce from ground levels of the adjacent rows of trees, which ground levels are below the intermediate levels, as per claim 11; and

in which the fruit is transmitted through the conduit (62) by at least one of gravity feed and vacuum assist exclusively, as per claim 13.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the conduit of Wiegel on the device of Girardi '705 in order to facilitate dropping or placement of fruit.

*Response to Arguments*

7. Applicant's arguments with respect to claims 3-6 and 8-13 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

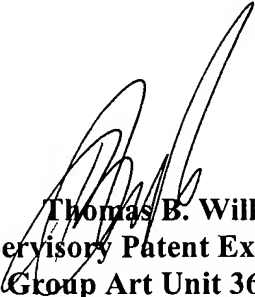
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 703-305-6953. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.



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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-872-9306.



**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group Art Unit 3671**

AMT  
December 30, 2004